

(1905) 01 MAD CK 0006
In the Madras High Court

Govindammal

APPELLANT

Vs

Gopalachariar, minor, by next friend Vedantachariar and
Another

RESPONDENT

Date of Decision : 06-01-1905

Acts Referred:

Transfer of Property Act, 1882 — Section 54

Citation : (1906) 16 MLJ 524

Judgement

1. The facts are simple. The 1st defendant sold the land which forms the subject-matter of this suit to the 3rd defendant on the 21st November

1899 under Exhibit I, a registered document, and subsequently executed Exhibit A on the 18th January 1900 by which he purported to sell the

same land to the 1st plaintiff. The 3rd defendant was duly put in possession of the land. Both the lower Courts have found that at the time that

Exhibit I was drawn up, a price was fixed for the land and that the 3rd defendant promised to pay this sum at the time of registration, but that as a

matter of fact he has paid nothing. The lower Courts have given the plaintiff a decree for the recovery of the land from the 2nd defendant. ""We are

of opinion that this decision cannot be upheld. It is clear that under the provisions of Section 54 of the Transfer pi Property Act, there was a valid

sale of the land to the 3rd defendant under Exhibit I and this sale-deed was registered as then required. All the reported decisions are to the effect

that such a sale is a completed transaction notwithstanding that the price agreed upon at the time of execution has never been paid. Reference may

be made inter alia to the decision in Tatia v. Babaji ILR (1898) 22 B. 176 (per farran C.J., at page 183) and Sagoji v. Namdev ILR (1899) 23 B.

525. It is urged that a suit would lie to set aside Exhibit I; but it is unnecessary to

consider whether this is a valid contention as it is certain that the only person who could bring such a suit is the 1st defendant. The 1st defendant could no doubt bring, a suit against the 3rd defendant for payment of the price fixed for the land, but it must be held that the plaintiffs have no remedy whatever as against the 3rd defendant.

2. We set aside the decrees of the lower Courts and dismiss this suit. The respondents will pay the costs of the appellant throughout.